

Montana Water Court
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FILED
01/07/2025
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41S-0609-R-2024
Stern, Anika
5.00

IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
JUDITH RIVER BASIN (41S)
PRELIMINARY DECREE

CLAIMANTS: Susan P. Brewington; Gary G. Brewington

CASE 41S-0609-R-2024

41S 48873-00
41S 48874-00
41S 48875-00
41S 48876-00
41S 48877-00
41S 132870-00
41S 132880-00
41S 132882-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above-stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

FINDINGS OF FACT

1. Susan P. Brewington and Gary G. Brewington (the Brewingtons) are the record owners of the claims in this Case.

2. The Brewingtons were ordered to meet with a DNRC employee to address the following unresolved issue remarks decreed on claims in this Case:

41S 48873-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-179-20 AND 30045-179-22 , DATED 09/17/1979 , APPEARS TO INDICATE 8.50 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

41S 48874-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-179-20 , DATED 09/17/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE DIKE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

41S 48875-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS 22.00 GPM PER ACRE.
- THE JUDITH BASIN COUNTY WATER RESOURCES SURVEY (1963) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30045-179-20 , DATED 09/17/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE LEGAL LAND DESCRIPTION FOR POINT OF DIVERSION NO. 2 COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THIS CLAIMED POINT OF DIVERSION CANNOT BE CONFIRMED.

41S 48876-00:

- THE MAXIMUM NUMBER OF ACRES CLAIMED ON THE ORIGINAL STATEMENT OF CLAIM IS 31.00 ACRES. THE DNRC'S RE-EXAMINATION WAS OF THESE ORIGINAL CLAIMED ACRES.
- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS 65.00 GPM PER ACRE.

- THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-76 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE DIKE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

41S 48877-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS 23.00 GPM PER ACRE.
- THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-76 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE LEGAL LAND DESCRIPTION FOR POINTS OF DIVERSION NO. 1 AND 2 COULD NOT BE REFINED FROM INFORMATION IN THE FILE. THE CLAIMED POINTS OF DIVERSION CANNOT BE CONFIRMED.

41S 132870-00:

- EXISTENCE OF THE CLAIMED RESERVOIR CANNOT BE CONFIRMED WITH AVAILABLE DATA.

41S 132880-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. THE CLAIMED VOLUME EQUALS 22.59 TIMES THE CAPACITY OF THE RESERVOIR.

41S 132882-00:

- FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.
- THE FERGUS COUNTY WATER RESOURCES SURVEY (1970) APPEARS TO INDICATE 0.00 ACRES IRRIGATED.
- USDA AERIAL PHOTOGRAPH NO(S). 30027-278-76 , DATED 09/25/1979 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED.

3. DNRC Water Resource Specialists Carli Bluhm and Brandon Ahlgren (the Specialists) filed a Memorandum regarding their review of the claims. (Doc.¹ 2.00). The specialists reviewed information in the claim files, maps, aerial photographs, and Judith Basin County and Fergus County Water Resources Surveys to prepare the Memorandum and make the recommendations; maps and proposed abstracts were attached to the

¹ “Doc.” numerical references correlate to case file docket numbers in the Water Court’s Full Court case management system.

Memorandum. The Specialists indicated they were not contacted by the Brewingtons. The Specialists addressed each of the claims in the Case:

4. **Claim 41S 48873-00:** Based on available information, the Specialists recommended the following modifications to claim 41S 48873-00 to address the issue remarks:

Flow Rate: 2-12 GFS 419.90 GPM

Maximum Acres: 66.00 24.70

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County	
1	3.00		E2NESE	1	11N	15E	JUDITH BASIN	
2	12.30 20.00	L6	NWSW	6	11N	16E	JUDITH BASIN	
3	4.40 6.00		W2NESW	6	11N	16E	JUDITH BASIN	
4	2.00	L5	S2SWNW	6	11N	16E	JUDITH BASIN	
5	11.00		N2NWSE	+	11N	16E	JUDITH BASIN	
6	.50 4.00	NWSESW	NENESW	8	+	11N	15E	JUDITH BASIN
7	1.50 8.00	L7	S2SWNE	8	+	11N	15E	JUDITH BASIN
8	1.00 2.00		SESENW	8	+	11N	15E	JUDITH BASIN
Total:	66.00 24.70							

5. **Claim 41S 48874-00:** Based on available information, the Specialists recommended the following modifications to claim 41S 48874-00 to address the issue remarks:

Maximum Acres: 28.00 20.00

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	12.00 20.00		S2NE	1	11N	15E	JUDITH BASIN
2	8.00		S2SESW	1	11N	15E	JUDITH BASIN
Total:	28.00 20.00						

6. **Claim 41S 48875-00:** The Specialists were unable to confirm the existence of the headgate described by point of diversion ID #2. The Specialists indicated that without assistance from the Claimants, the point of diversion issue remark decreed on claim 41S 48875-00 can't be resolved. Based on the information provided by the Specialists, together with the record, it appears the following modifications should be made to claim 41S 48875-00:

Flow Rate: ~~2.00 CFS~~ 1.40 CFS

Maximum Acres: ~~40.70~~ 37.00

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSESE	6	11N	16E	JUDITH BASIN
Period of Diversion: APRIL 15 TO SEPTEMBER 15						
Diversion Means: HEADGATE						
2		NWSESE	6	11N	16E	JUDITH BASIN
Period of Diversion: APRIL 15 TO SEPTEMBER 15						
Diversion Means: HEADGATE						

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	1.00	3.70	NENESW	6	11N	16E	JUDITH BASIN
2	38.00	37.00	SE	6	11N	16E	JUDITH BASIN
Total:		40.70	37.00				

7. **Claim 41S 48876-00:** The Specialists were unable to confirm the existence of the dike described by claim 41S 48876-00. The Specialists explained a ditch is present and they identified irrigation at the claimed place of use in a 1962 aerial photograph. However, it is unclear if the 19.50 acres of irrigation identified by the Specialists is from the dike described by claim 41S 48876-00. Without additional information from the Brewingtons to identify the conveyance system, it appears claim 41S 48876-00 should be dismissed.

8. **Claim 41S 48877-00:** Based on available information, the Specialists recommended the following modifications to claim 41S 48877-00 to address the issue remarks:

Flow Rate: ~~3.75 CFS~~ 370.60 GPM

Maximum Acres: ~~72.00~~ 21.80

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SESESW	18	11N	17E	FERGUS
Period of Diversion: MAY 1 TO SEPTEMBER 15						
Diversion Means: DIKE						
2	SWSESW	NESWSW	18	11N	17E	FERGUS
Period of Diversion: MAY 1 TO SEPTEMBER 15						
Diversion Means: DIKE						

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1	6.40	20.00	SWSW	18	11N	17E	FERGUS
2	5.10	4.00	SWSESW	18	11N	17E	FERGUS
3	9.00	20.00	SESE	13	11N	18E	FERGUS
4	6.00		E2SWSE	13	11N	18E	FERGUS
5	1.30	6.00	SWNESE	13	11N	18E	FERGUS
Total:	72.00	21.80					

9. **Claim 41S 132870-00:** The Specialists were able to identify the surface water reservoir described by claim 41S 132870-00 and they recommended the reservoir issue remark be removed from claim 41S 132870-00.

10. **Claim 41S 132880-00:** Based on available information, the Specialists recommended the following modifications to claim 41S 132880-00 to address the issue remarks:

Volume:	401.20 AC-FT	13.50 AC-FT
Maximum Acres:	22.00	20.00
*Reservoir:	ONSTREAM	
	<u>Govt Lot</u>	<u>Qtr Sec</u>
		<u>Sec</u>
		<u>Twp</u>
		<u>Rge</u>
		<u>County</u>
		SWNWNE
		19
		11N
		17E
		FERGUS
Diversion to Reservoir:	DIVERSION # 1	
Dam Height:	13.00 FEET	
Depth:	9.00	10.00 FEET
Surface Area:	1.50	4.12 ACRES
Capacity:	13.50	4.48 ACRE-FEET
Place of Use:		
ID	Acres	Govt Lot
1	4.00	5.00
2	13.00	14.00
3	3.00	
Total:	22.00	20.00
		<u>Qtr Sec</u>
		<u>Sec</u>
		<u>Twp</u>
		<u>Rge</u>
		<u>County</u>
		NWNE
		19
		11N
		17E
		FERGUS
		SWSE
		18
		11N
		17E
		FERGUS
		NWSE
		18
		11N
		17E
		FERGUS

11. **Claim 41S 132882-00:** The Specialists were unable to confirm irrigation using the resources available to them. The Specialists recommend dismissal of claim 41S 132882-00.

12. A deadline was set for the Brewingtons to agree or disagree that claims 41S 48873-00, 41S 48874-00, 41S 48875-00, 41S 4887-00, and 41S 132880-00 be modified as described in this Order to address the unresolved issue remarks and that claims 41S 48876-00 and 41S 132882-00 be dismissed.

13. On May 29, 2024, the Brewingtons responded and agreed with the changes proposed for claims 41S 48873-00, 41S 48874-00, 41S 48875-00, 41S 4887-00, and 41S 132880-00 and the proposed dismissal of claims 41S 48876-00 and 41S 132882-00. (Doc. 4.00).

PRINCIPLES AND CONCLUSIONS OF LAW

1. The Water Court must address all issue remarks decreed on a claim. Section 85-2-248, MCA.
2. A properly filed Statement of Claim for an existing water right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie validity may be overcome by evidence showing that one or more elements of the claim are incorrect. This standard of proof applies to objectors or claimants objecting to their own water right claims. Rule 19, W.R.Adj.R., *Nelson v. Brooks*, 2014 MT 120; 375 Mont.86, 95; 329 P.3d 558, 564.
3. In addition to the issue remarks already discussed, claims 41S 48873-00, 41S 132870-00, and 41S 132880-00 were decreed with notice-type issue remarks. As no Objections were filed, no further proceedings are needed.

RECOMMENDATIONS

1. Claim 41S 48873-00 should be modified as described in Finding of Fact No. 4; claim 41S 48874-00 should be modified as described in Finding of Fact No. 5; claim 41S 48875-00 should be modified as shown in Finding of Fact No. 6, claim 41S 4887-00 should be modified as shown in Finding of Fact No. 8; and claim 41S 132880-00 should be modified as shown in Finding of Fact No. 10.
2. Claims 41S 48876-00 and 41S 132882-00 should be dismissed.
Abstracts are enclosed for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Susan P. Brewington
Gary G. Brewington
P.O. Box 176
Judith Gap, MT 59453-0176

\\JUDHLNSRV-DATA\Share\JUDGALH2OSRV (Datavol)\Share\WC-BASIN FOLDERS\41S PD\Cases\609\41S-0609-R-2024 MR 6.4.24 rc.docx

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JUDITH RIVER
BASIN 41S**

Water Right Number: 41S 48873-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: GARY G BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

SUSAN P BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

Priority Date: MAY 5, 1903

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 419.90 GPM

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 24.70

Source Name: RED BLUFF CREEK

Source Type: SURFACE WATER

Source Name: SPRING, UNNAMED TRIBUTARY OF RED BLUFF CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENWSW	6	11N	16E	JUDITH BASIN

Source Name: RED BLUFF CREEK

Period of Diversion: MAY 1 TO SEPTEMBER 15

Diversion Means: DIKE

2		SWNESE	1	11N	15E	JUDITH BASIN
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Source Name: SPRING, UNNAMED TRIBUTARY OF RED BLUFF CREEK

Period of Diversion: MAY 1 TO SEPTEMBER 15

Diversion Means: DIKE

3		NENESW	1	11N	15E	JUDITH BASIN
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Source Name: SPRING, UNNAMED TRIBUTARY OF RED BLUFF CREEK

Period of Diversion: MAY 1 TO SEPTEMBER 15

Diversion Means: DIKE

Period of Use: MAY 1 TO SEPTEMBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	3.00		E2NESE	1	11N	15E	JUDITH BASIN
2	12.30	6		6	11N	16E	JUDITH BASIN
3	4.40		W2NESW	6	11N	16E	JUDITH BASIN
4	2.00	5	S2SWNW	6	11N	16E	JUDITH BASIN
5	0.50		NWSESW	6	11N	15E	JUDITH BASIN
6	1.50	7	NE	6	11N	15E	JUDITH BASIN
7	1.00		SEnw	6	11N	15E	JUDITH BASIN
Total:	<u>24.70</u>						

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JUDITH RIVER
BASIN 41S**

Water Right Number: 41S 48874-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: GARY G BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

SUSAN P BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

Priority Date: JUNE 1, 1883

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 224.41 GPM

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 20.00

Source Name: RED BLUFF CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSENW	1	11N	15E	JUDITH BASIN

Period of Diversion: MAY 1 TO SEPTEMBER 15

Diversion Means: DIKE

Period of Use: MAY 1 TO SEPTEMBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	12.00		S2NE	1	11N	15E	JUDITH BASIN
2	8.00		S2SENW	1	11N	15E	JUDITH BASIN

Total: 20.00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JUDITH RIVER
BASIN 41S**

Water Right Number: 41S 48875-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: GARY G BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

SUSAN P BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

Priority Date: MAY 1, 1883

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.40 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 37.00

Source Name: ROSS FORK CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWSESE	6	11N	16E	JUDITH BASIN

Period of Diversion: APRIL 15 TO SEPTEMBER 15

Diversion Means: HEADGATE

Period of Use: APRIL 15 TO SEPTEMBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	1.00		NENESW	6	11N	16E	JUDITH BASIN
2	36.00		SE	6	11N	16E	JUDITH BASIN

Total: 37.00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JUDITH RIVER
BASIN 41S**

Water Right Number: 41S 48876-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: GARY G BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

SUSAN P BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: ROSS FORK CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JUDITH RIVER
BASIN 41S**

Water Right Number: 41S 48877-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: GARY G BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

SUSAN P BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

Priority Date: MARCH 7, 1883

Type of Historical Right: DECREED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 370.60 GPM

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 21.80

***Source Name:** HYDE CREEK

Source Type: SURFACE WATER

ALSO KNOWN AS JOHNSON CREEK

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESESW	18	11N	17E	FERGUS

Period of Diversion: MAY 1 TO SEPTEMBER 15

Diversion Means: DIKE

2		SWSESW	18	11N	17E	FERGUS
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Period of Diversion: MAY 1 TO SEPTEMBER 15

Diversion Means: DIKE

Period of Use: MAY 1 TO SEPTEMBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	6.40		SWSW	18	11N	17E	FERGUS
2	5.10		SWSESW	18	11N	17E	FERGUS
3	9.00		SESE	13	11N	16E	FERGUS
4	1.30		SWNESE	13	11N	16E	FERGUS

Total: 21.80

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JUDITH RIVER
BASIN 41S**

Water Right Number: 41S 132870-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: GARY G BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

SUSAN P BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

Priority Date: OCTOBER 31, 1966

Type of Historical Right: USE

Purpose (Use): STOCK

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

***Volume:** THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

***Source Name:** UNNAMED TRIBUTARY OF HYDE CREEK

Source Type: SURFACE WATER

ALSO KNOWN AS UNNAMED TRIBUTARY OF JOHNSON CREEK

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SENWSE	18	11N	17E	FERGUS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SENWSE	18	11N	17E	FERGUS

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NWSE	18	11N	17E	FERGUS

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JUDITH RIVER
BASIN 41S**

Water Right Number: 41S 132880-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: GARY G BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

SUSAN P BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

Priority Date: DECEMBER 31, 1935

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

***Flow Rate:** A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Volume: 13.50 AC-FT

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 20.00

***Source Name:** UNNAMED TRIBUTARY OF HYDE CREEK

Source Type: SURFACE WATER

ALSO KNOWN AS UNNAMED TRIBUTARY OF JOHNSON CREEK

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWNWNE	19	11N	17E	FERGUS

***Period of Diversion:** APRIL 1 TO NOVEMBER 30

Diversion Means: HEADGATE

***Reservoir:** ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	SWNWNE	19	11N	17E	FERGUS

Diversion to Reservoir: DIVERSION # 1

Dam Height: 13.00 FEET

Depth: 9.00 FEET

Surface Area: 1.50 ACRES

Capacity: 13.50 ACRE-FEET

Period of Use: APRIL 1 TO NOVEMBER 30

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	4.00		NWNE	19	11N	17E	FERGUS
2	13.00		SWSE	18	11N	17E	FERGUS
3	3.00		NWSE	18	11N	17E	FERGUS
Total:	<u>20.00</u>						

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
JUDITH RIVER
BASIN 41S**

Water Right Number: 41S 132882-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: **DISMISSED**

Owners: GARY G BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

SUSAN P BREWINGTON
PO BOX 176
JUDITH GAP, MT 59453-0176

Priority Date:

Type of Historical Right:

Purpose (Use): IRRIGATION

Flow Rate:

Volume:

Source Name: ROSS FORK CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.